

**REMARKS**

***Amendments to the Claims***

Claims 1, 2, 5-48, 51, 52, and 54 were pending in the instant application as of the issuance of the present Office Action. According to the foregoing amendments, claims 1, 6, and 8-17 have been amended, claims 1, and 8-19 have been withdrawn, and claims 5, 20-48, 51, 52, and 54 have been cancelled without prejudice. Accordingly, after the amendments presented herein have been entered, claims 1, 2, and 6-19 will remain pending in the application.

Support for the claim amendments and new claims presented herein can be found throughout the specification and in the claims as originally filed. Specifically, support for the amendment to claim 6 can be found throughout the specification, for example, at page 4, paragraphs [0065]-[0074] and in the claims as originally filed, for example, claims 5 and 6. No new matter has been introduced by the foregoing amendments.

Any amendments to the claims have been made solely in the interest of expediting prosecution and allowance of the application. The foregoing amendments are not related to issues of patentability. Applicants reserve the right to pursue the claims as originally filed in this or separate application(s).

**RESTRICTION REQUIREMENT**

Claims 1, 2, 5-48, 51, 52 and 54 are subject to a restriction requirement. The Examiner has required restriction, under PCT Rule 13.1, between the following inventions in the above-identified application:

- Group I: Claim 1 and 5 drawn to a method for regulating the transcription of a gene comprising introducing into a host cell an isolated nucleic acid molecule having promoter activity, selected from the group consisting of a nucleic acid molecule comprising the nucleotide sequence of SEQ ID NO:1 or homologs thereof.
- Group II: Claims 2, 6, and 7, drawn to an expression unit and a method of regulating the expression of a gene comprising introducing into a host cell an expression unit comprising a nucleic acid molecule having promoter activity comprising the nucleotide sequence of SEQ ID NO:1 or homologs thereof, wherein said nucleic acid molecule is functionally linked to a nucleic acid sequence which ensures the translation of ribonucleic acids or said expression unit consisting of SEQ ID NO:2.
- Group III: Claims 1, 5, 8-12, 18, 19 drawn to a method for altering the transcription rate of genes in microorganisms compared with the wild type comprising altering the specific promoter activity of a nucleic acid molecule having promoter activity, comprising the nucleotide sequence of SEQ ID NO:1 or homologs thereof in the microorganism, or regulating the transcription of genes in the microorganism by introducing, for example, one or more genes into the genome of the microorganism.
- Group IV: Claim 2, 6, 13-17, drawn to a method for altering the expression rate of a gene in microorganisms in microorganisms compared with the wild type comprising altering the specific promoter activity comprising a nucleic

acid molecule having promoter activity comprising the nucleotide sequence of SEQ ID NO:1 or homologs thereof, wherein said nucleic acid molecule is functionally linked to a nucleic acid sequence which ensures the translation of ribonucleic acids or an expression unit consisting of SEQ ID NO:2 and at least one additional nucleic acid.

- Group V: Claims 2, 6, 7 and 20-23 drawn to an expression cassette comprising at least one expression unit comprising a nucleic acid molecule having promoter activity comprising the nucleotide sequence of SEQ ID NO:1 or homologs thereof, wherein said nucleic acid molecule is functionally linked to a nucleic acid sequence which ensures the translation of ribonucleic acids or an expression unit consisting of SEQ ID NO:2.
- Group VI: Claims 1, 5, 24-28, drawn to a genetically modified microorganism, where the genetic modification leads to an alteration or causing of the transcription rate of at least one gene compared to the wild type, and is dependent on altering the specific promoter activity in the microorganism of at least one endogenous nucleic acid having promoter activity of the nucleotide sequence of SEQ ID NO:1 or homologs thereof.
- Group VII: Claims 2, 6, 7, 20, 29-35, drawn to a genetically modified microorganism wherein the modification leads to an alteration or causing of the expression rate of at least one gene compared with the wild type, and is dependent on altering the specific expression activity in the microorganism of at least one endogenous expression unit comprising a nucleic acid molecule having promoter activity comprising the nucleotide sequence of SEQ ID NO:1 or homologs thereof, wherein said nucleic acid molecule is functionally linked to a nucleic acid sequence which ensures the translation of ribonucleic acids or an expression unit consisting of SEQ ID NO:2.

Group VIII: Claims 51, 52, and 54 drawn to an expression unit which enables genes to be expressed in bacteria of the genus *Corynebacterium* or *Brevibacterium* comprising at least one of the nucleic acid sequences of SEQ ID NOs: 42, 43 or 44. The Examiner has further required, under 35 U.S.C. § 121, that the Applicants elect (1) a single polypeptide or nucleic acid sequence (*i.e.*, SEQ ID NOs: 1-142) and (2) one mutation in the elected sequence.

Accordingly, Applicants hereby elect Group II (claims 2, 6, and 7 drawn to an expression unit and a method of regulating the expression of a gene), *without traverse*.

Applicants' election of the foregoing subject matter is without prejudice to Applicants' rights to pursue non-elected subject matter in other applications. Furthermore, Applicants reserve the right to traverse the restriction between the non-elected groups in this or a separate application.

With regard to the remaining method claims, it is Applicants' understanding that once a composition claim is found to be allowable, the pending method claims that depend from or otherwise include all the limitations of an allowable composition claim will be re-joined in accordance with the provisions of MPEP § 821.04. Applicants note that upon entry of the foregoing amendment, method claims 1 and 8-19 will be dependent of elected claim 6, drawn to an expression unit. Accordingly, Applicants respectfully request re-joinder of claims 1 and 8-19 should any of the pending composition claims be found to be allowable.

Applicants reserve the right to traverse the restriction between the non-elected groups in this or a separate application.

**SUMMARY**

Applicants respectfully submit that the above-identified application is in condition for allowance. If a telephone conversation with Applicants' attorney would expedite prosecution of the above-identified application, the Examiner is urged to call the undersigned at (617) 227-7400.

Applicants believe that no additional fee is due with this submission; however, if the Applicants are in error, the Commissioner is hereby authorized to charge any such deficiency to Deposit Account No. 12-0080, under Order No. PKI-188US, from which the undersigned is authorized to draw.

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Respectfully submitted,

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